

AMENDED IN SENATE APRIL 10, 2013

SENATE BILL

No. 451

Introduced by Senator Huff

*(Coauthors: Senators Anderson, Berryhill, Emmerson, Fuller, Gaines,
Knight, Nielsen, Walters, and Wyland)*

February 21, 2013

An act to amend Sections 33050, 48352, 48354, and 48356 of the Education Code, relating to school enrollment.

LEGISLATIVE COUNSEL'S DIGEST

SB 451, as amended, Huff. Open Enrollment Act: expansion to all school districts of residence.

Existing

(1) Existing law, the Open Enrollment Act, authorizes the parent of a pupil enrolled in a low-achieving school, as defined, to submit an application for the pupil to attend a school in a school district of enrollment, as defined, as specified.

This bill would expand the act to authorize the parent of a pupil enrolled in a school district of residence, as defined, to submit an application for the pupil to attend a school in a school district other than their school district of residence.

The Open Enrollment Act requires a school district of enrollment to ensure that pupils enrolled pursuant to the act are enrolled in a school with a higher Academic Performance Index ~~(API)~~ than the school in which the pupil was previously enrolled and are selected through a random, unbiased process, except that pupils applying for transfer are required to be assigned specified priorities for approval.

This bill would add a third priority for approval for pupils transferring from a school ranked in decile 2 on the ~~API~~ *Academic Performance Index*.

To the extent the bill would expand the duties of school districts under the Open Enrollment Act, the bill would impose a state-mandated local program.

(2) *Existing law authorizes the governing board of a school district or a county board of education, as specified, after a public hearing on the matter, to request the State Board of Education to waive all or part of any section of the Education Code or any regulation adopted by the state board that implements a provision of the Education Code that may be waived, except for specified provisions.*

This bill would include additional specified provisions of the Education Code, relating to notice and procedures to apply and transfer schools pursuant to the Open Enrollment Act, that may not be waived.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 33050 of the Education Code is amended
2 to read:

3 33050. (a) The governing board of a school district or a county
4 board of education, on a districtwide or countywide basis or on
5 behalf of one or more of its schools or programs, after a public
6 hearing on the matter, may request the State Board of Education
7 to waive all or part of any section of this code or any regulation
8 adopted by the State Board of Education that implements a
9 provision of this code that may be waived, except:

10 (1) Article 1 (commencing with Section 15700) and Article 2
11 (commencing with Section 15780) of Chapter 4 of Part 10.

12 (2) Chapter 6 (commencing with Section 16000) of Part 10.

(3) Chapter 12 (commencing with Section 17000), Chapter 12.5 (commencing with Section 17070.10), and Chapter 14 (commencing with Section 17085) of Part 10.

(4) Part 13 (commencing with Section 22000).

(5) Section 35735.1.

(6) Paragraph (8) of subdivision (a) of Section 37220.

(7) The following provisions of Part 10.5 (commencing with Section 17211):

(A) Chapter 1 (commencing with Section 17211).

(B) Article 1 (commencing with Section 17251) to Article 6 (commencing with Section 17365), inclusive, of Chapter 3.

(C) Sections 17416 to 17429, inclusive; Sections 17459 and 17462 and subdivision (a) of Section 17464; and Sections 17582 to 17592, inclusive.

(8) The following provisions of Part 24 (commencing with Section 41000):

(A) Sections 41000 to 41360, inclusive.

(B) Sections 41420 to 41423, inclusive.

(C) Sections 41600 to 41866, inclusive.

(D) Sections 41920 to 42911, inclusive.

(9) Sections 44504 and 44505.

(10) Article 3 (commencing with Section 44930) of Chapter 4 of Part 25 and regulations in Title 5 of the California Code of Regulations adopted pursuant to Article 3 (commencing with Section 44930) of Chapter 4 of Part 25.

(11) Part 26 (commencing with Section 46000).

(12) Sections 48354, 48355, and 48356.

~~(12)~~

(13) Chapter 6 (commencing with Section 48900) and Chapter 6.5 (commencing with Section 49060) of Part 27.

~~(13)~~

(14) Section 51513.

~~(14)~~

(15) Chapter 6.10 (commencing with Section 52120) of Part 28, relating to class size reduction.

~~(15)~~

(16) Section 52163.

~~(16)~~

(17) The identification and assessment criteria relating to any categorical aid program, including Sections 52164.1 and 52164.6.

1 ~~(17)~~

2 ~~(18)~~ Sections 52165, 52166, and 52178.

3 ~~(18)~~

4 ~~(19)~~ Article 3 (commencing with Section 52850) of Chapter 12
5 of Part 28.

6 ~~(19)~~

7 ~~(20)~~ Section 56364.1, except that this restriction shall not
8 prohibit the State Board of Education from approving any waiver
9 of Section 56364 or Section 56364.2, as applicable, relating to full
10 inclusion.

11 ~~(20)~~

12 ~~(21)~~ Article 4 (commencing with Section 60640) of Chapter 5
13 of Part 33, relating to the STAR Program, and any other provisions
14 of Chapter 5 (commencing with Section 60600) of Part 33 that
15 establish requirements for the STAR Program.

16 (b) Any waiver of provisions related to the programs identified
17 in Section 52851 shall be granted only pursuant to Article 3
18 (commencing with Section 52850) of Chapter 12 of Part 28.

19 (c) The waiver of an advisory committee required by law shall
20 be granted only pursuant to Article 4 (commencing with Section
21 52870) of Chapter 12 of Part 28.

22 (d) Any request for a waiver submitted by the governing board
23 of a school district or a county board of education pursuant to
24 subdivision (a) shall include a written statement as to both of the
25 following:

26 (1) Whether the exclusive representative of employees, if any,
27 as provided in Chapter 10.7 (commencing with Section 3540) of
28 Division 4 of Title 1 of the Government Code, participated in the
29 development of the waiver.

30 (2) The exclusive representative's position regarding the waiver.

31 (e) Any request for a waiver submitted pursuant to subdivision
32 (a) relating to a regional occupational center or program established
33 pursuant to Article 1 (commencing with Section 52300) of Chapter
34 9 of Part 28, that is operated by a joint powers entity established
35 pursuant to Chapter 5 (commencing with Section 6500) of Division
36 7 of Title 1 of the Government Code, shall be submitted as a joint
37 waiver request for each participating school district and shall meet
38 both of the following conditions:

39 (1) Each joint waiver request shall comply with all of the
40 requirements of this article.

(2) The submission of a joint waiver request shall be approved by a unanimous vote of the governing board of the joint powers agency.

(f) The governing board of any school district requesting a waiver under this section of any provision of Article 5 (commencing with Section 39390) of Chapter 3 of Part 23 shall provide written notice of any public hearing it conducted pursuant to subdivision (a), at least 30 days prior to the hearing, to each public agency identified under Section 39394.

~~SECTION 4.~~

SEC. 2. Section 48352 of the Education Code is amended to read:

48352. For purposes of this article, the following definitions apply:

(a) “Parent” means the natural or adoptive parent or guardian of a dependent child.

(b) “School district of enrollment” means a school district other than the school district in which the parent of a pupil resides, but in which the parent of the pupil nevertheless intends to enroll the pupil pursuant to this article.

(c) “School district of residence” means a school district in which the parent of a pupil resides and in which the pupil would otherwise be required to enroll pursuant to Section 48200.

~~SEC. 2.~~

SEC. 3. Section 48354 of the Education Code is amended to read:

48354. (a) The parent of a pupil enrolled in a school district of residence may submit an application for the pupil to attend a school in a school district of enrollment pursuant to this article.

(b) (1) Consistent with the requirements of Section 1116(b)(1)(E) of the federal Elementary and Secondary Education Act of 2001 (20 U.S.C. Sec. 6301 et seq.), on or before the first day of the school year, or, if later, on the date the notice of program improvement, corrective action, or restructuring status is required to be provided under federal law, the school district of residence shall provide the parents and guardians of all pupils enrolled in a school in the district with notice of the option to transfer to another public school served by the school district of residence or another school district.

(2) An application requesting a transfer pursuant to this article shall be submitted by the parent of a pupil to the school district of enrollment before January 1 of the school year preceding the school year for which the pupil is requesting to transfer. The school district of enrollment may waive the deadline specified in this paragraph.

(3) The application deadline specified in paragraph (2) does not apply to an application requesting a transfer if the parent, with whom the pupil resides, is enlisted in the military and was relocated by the military within 90 days before submitting the application.

(4) The application may request enrollment of the pupil in a specific school or program within the school district of enrollment.

(5) A pupil may enroll in a school in the school district of enrollment in the school year immediately following the approval of his or her application.

(6) In order to provide priority enrollment opportunities for pupils residing in the school district, a school district of enrollment shall establish a period of time for resident pupil enrollment before accepting transfer applications pursuant to this article.

~~SEC. 3.~~

SEC. 4. Section 48356 of the Education Code is amended to read:

48356. (a) A school district of enrollment may adopt specific, written standards for acceptance and rejection of applications pursuant to this article. The standards may include consideration of the capacity of a program, class, grade level, school building, or adverse financial impact. Subject to subdivision (b), and except as necessary in accordance with Section 48355, the standards shall not include consideration of a pupil's previous academic achievement, physical condition, proficiency in the English language, family income, or any of the individual characteristics set forth in Section 200.

(b) In considering an application pursuant to this article, a ~~nonresident~~ school district of enrollment may apply its usual requirements for admission to a magnet school or a program designed to serve gifted and talented pupils.

(c) Subject to the rules and standards that apply to pupils who reside in the school district of enrollment, a resident pupil who is enrolled in one of the district's schools pursuant to this article shall not be required to submit an application in order to remain enrolled.

(d) A school district of enrollment shall ensure that pupils enrolled pursuant to standards adopted pursuant to this section are enrolled in a school with a higher Academic Performance Index than the school in which the pupil was previously enrolled and are selected through a random, unbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based on his or her individual academic or athletic performance, or any of the other characteristics set forth in subdivision (a), except that pupils applying for a transfer pursuant to this article shall be assigned priority for approval as follows:

(1) First priority for the siblings of children who already attend the desired school.

(2) Second priority for pupils transferring from a program improvement school ranked in decile 1 on the Academic Performance Index.

(3) Third priority for pupils transferring from a school ranked in decile 2 on the Academic Performance Index.

(4) If the number of pupils who request a particular school exceeds the number of spaces available at that school, a lottery shall be conducted in the group priority order identified in paragraphs (1) to (3), inclusive, to select pupils at random until all of the available spaces are filled.

(e) The initial application of a pupil for transfer to a school within a school district of enrollment shall not be approved if the transfer would require the displacement from the desired school of any other pupil who resides within the attendance area of that school or is currently enrolled in that school.

(f) A pupil approved for a transfer to a school district of enrollment pursuant to this article shall be deemed to have fulfilled the requirements of Section 48204.

~~SEC. 4.~~

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.